



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-1290-1991(O&M)
Reserved on:-29.01.2025
Date of Pronouncement:-25.04.2025**

Bhagat Singh

...Appellant

Versus

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ashok Singla, Advocate,
Mr. Aakash Singla, Advocate and
Mr. Ankush Singla, Advocate
for the appellant.

Mr. Ramesh Chand Sharma, Advocate
for respondent No.1 – Union of India.

Mr. Puru Jarewal, AAG, Punjab
for respondents No.2 and 3.

Mr. Abhay Gupta, Advocate
for respondent No.4.

SUVIR SEHGAL, J.

CM-2329-C-2022

1. For the reasons given in the application, it is allowed.
2. Legal representatives of deceased/respondent No.4, are ordered to be impleaded in place of the deceased, subject to all just exceptions.
3. Amended memo of parties is taken on record.

MAIN APPEAL

4. Aggrieved of concurrent finding recorded by the two



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Courts, appellant/plaintiff has approached this Court by way of instant second appeal.

5. This appeal has a chequered past. Shorn of lengthy pleadings, claim of the plaintiff is that he is the owner in possession of the suit land since times immemorial and he never paid any *Chakota*, *Lagaan*, *Batai* or any form of rent to any one. In the year 1962, Government of India surrendered their rights, which they had acquired by virtue of an Act passed by the Parliament, in favour of Government of Punjab through a letter written by the Chief Settlement Commissioner, Ministry of Rehabilitation, Government of India. The Punjab Government enacted the Punjab Package Deal Properties (Disposal) Act, 1976 (for short "the 1976 Act") for disposal of surplus evacuee properties and Deputy Commissioner, Sangrur was given the powers of a Sales Commissioner. He allotted the suit land vide order dated 15.05.1972 in favour of defendant No.4. Plaintiff claims that this order is null and void and inoperative under the 1976 Act as he was never given any opportunity to show cause against eviction. He disputed the eligibility of defendant No.4 and filed a suit for declaratory decree to the effect that he is in possession of the suit land and for restraining defendants/respondents from taking over the possession of the land. Upon notice, defendants No.1 to 3 filed their written statement, wherein they pleaded that as the suit property is a package deal property, Civil Court does not have the jurisdiction in view of Section 16 of the 1976 Act. Certain other objections were also raised regarding the maintainability of the suit. Defendant No.4 filed a separate written



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statement claiming that she was entitled to get possession as the Collector, Sangrur had allotted the land in her favour being a war widow. On the basis of the pleadings of the parties, Trial Court framed two issues, which were treated as preliminary and by judgment dated 09.08.1985, suit was dismissed. In appeal, learned Additional District Judge (I), Sangrur by judgment dated 23.08.1986, reversed the findings recorded by the Trial Court on the two preliminary issues and remanded the matter to the Trial Court. After remand, plaintiff and defendant No.4 amended the pleadings, but defendants No.1 to 3 did not file any amended written statement. By order dated 19.09.1988, Trial Court recasted the issues. Parties led evidence in support of their respective case and by judgment and decree dated 30.05.1989, Trial Court dismissed the suit. Plaintiff remained unsuccessful in the first appeal, which was rejected by learned Additional District Judge, Sangrur by judgment dated 27.05.1991, resulting in the institution of the present appeal.

6. Counsel for the appellant has argued that the suit land has been in possession of the plaintiff for generations and he has become owner in possession by way of adverse possession. His possession is open, hostile and to the knowledge of the public at large. It is his argument that there is no evidence to establish that the suit land was ever declared as evacuee property and the allotment made in favour of defendant No.4 is illegal. He submits that the Courts below have misconstrued his application Ex.DX to reject the claim of the plaintiff.

7. *Per contra*, counsel for the respondents have argued that



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suit property is an evacuee property and it has been validly allotted in favour of defendant No.4. It has been contended that plaintiff does not have any *locus standi* to challenge the allotment.

8. I have heard counsel for the parties and considered their respective submissions besides examining the requisitioned record with their able assistance.

9. In their written statement, respondents/defendants No.1 to 3 have, *inter alia*, taken an objection that the matter has already been decided by the Punjab and Haryana High Court while dismissing CWP-2384-1971 filed by the plaintiff and his predecessor. Plaintiff has not made any reference to this writ petition in the plaint. In replication to the written statement filed by the official respondents/defendants, plaintiff has stated that filing of the writ petition is “not admitted” and that the facts of the alleged writ petition were different. Refuting the written statement, a stand has been taken by the plaintiff that the suit is not barred by *res judicata*. In this backdrop, it is, therefore, necessary to examine the judgment passed by the writ Court which is reproduced hereunder:

“The petitioners (21 in all) claim to be in occupation of unspecified evacuee land in village Kila Hakim, Tehsil Malerkotla, District Sangrur. They alleged that they are entitled to purchase the same from the Rehabilitation Department as old occupants. They approached the Rehabilitation Department for this purpose but nothing has been done. They learnt on June 11, 1971, from the Field Kanungo and Patwari that the land in their



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occupation has been allotted to respondent No.3. This land could not be allotted to respondent No.3 as the petitioners had a right to purchase it. They have filed the present writ petition praying that the allotment of the land in their occupation in favour of respondent No.3 be quashed and the respondents be restrained from dispossessing them there-from.

The petitioners have adduced no evidence of the fact that they ever applied to the Rehabilitation authorities for the purchase of the evacuee land which they claim is under their occupation. Assuming that the petitioners had made such applications within the stipulated period it is admitted that the same have not been disposed of so far. The petitioners, if advised, should pursue their applications which they may have filed with the Rehabilitation authorities for the purchase of the land.

Another grievance of the petitioners is that the land in their occupation has been allotted in favour of respondent No.3 who is stated to be a displaced person from Pakistan. No evidence of such allotment has been placed on the file. Assuming that such allotment has been made, the petitioners could challenge the same by filing an appeal under the provisions of Displaced Persons (Compensation and Rehabilitation) Act. For these reasons the petitioners cannot maintain this writ petition assailing the alleged allotment of land in favour of respondent No.3.

The last contention of the learned counsel for the



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petitioners is that no notice was given to the petitioners before dispossessing them from the land in dispute. No evidence has been produced to prove that an action in the matter of dispossession of the petitioners has been initiated. Assuming that an action for dispossession of the petitioners has been initiated and the petitioners wish to challenge the same, they can approach the Rehabilitation authorities for relief.

In view of discussion above, the writ petition being thoroughly misconceived is dismissed. No order as to costs.”

10. A perusal of the memo of parties of the writ petition shows that plaintiff, Bhagat Singh son of Mangal Singh is petitioner No.6 in the writ petition. After having availed the extraordinary writ jurisdiction, plaintiff preferred to file the instant suit, which pertains to the same land in dispute. Suit is clearly barred by the principles of *res judicata*. Not only this, plaintiff suppressed the filing of the writ petition and has approached the Civil Court with tainted hands. He is not entitled to any relief as he has failed to disclose the filing of the writ petition.

11. A heavy onus lies on a person, who approaches the Court to reveal all the facts and circumstances, which have any connection with the matter in dispute. It is the bounden duty of a litigant to place before the Court the entire facts leading to the filing of the suit so as to enable the Court to assess them and arrive at a conclusion. However, as the plaintiff has tried to hoodwink the Court and has concealed vital facts, he is not entitled to any relief and his plaint deserves to be dismissed. In



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Court has observed that an act of deliberate deception with a design to secure something which is otherwise not due tantamounts to playing fraud. Instant appeal deserves to be dismissed on this score alone.

12. There is evidence to show that government has been mentioned as the owner in the column of the ownership in the revenue record. Ownership of the government cannot be disputed. Plaintiff's assertion of ownership by way of adverse possession cannot be accepted in view of his implied admission in the application for allotment. The application dated 08.03.1988, Ex.DX, submitted by the plaintiff for allotment of land under the 1976 Act is a clincher and defeats the entire case set up by him in his plaint. There is no illegality or infirmity in the findings recorded by the Courts below, which are affirmed.

13. Appeal being devoid of merit is dismissed with no order as to costs.

14. Pending application, if any, is also disposed off.

(SUVIR SEHGAL)

JUDGE

25.04.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No